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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE 2400
CHICAGO IL 60603-5803

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Application of :
Marcelo Daniel Baru FASSIO, et al :
Application No. 10/817,158 : DECISION ON PETITION
Filed: April 2, 2004 :
Docket No. 39438-401600 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 12, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 13, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$770; and (3) the required statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$ 525 extension of time fee submitted with the petition on August 27, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account 50-1662.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3762 for appropriate action by the Examiner in the normal course of business on the reply received August 27, 2008.

A handwritten signature in black ink, appearing to read "Thurman Page", with a stylized flourish at the end.

Thurman Page
Petitions Examiner
Office of Petitions

Cc: TIMOTHY J. KEEFER
180 N. STETSON AVENUE, SUITE 4525
CHICAGO, IL 60601

RECEIVED
CENTRAL FAX CENTER

AUG 27 2008

PTO/SB/22 (01-08)

Approved for use through 01/31/2008. OMB 0851-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a) FY 2008 <i>(Fees pursuant to the Consolidated Appropriations Act, 2008 (H.R. 4818).)</i>		Docket Number (Optional) 055722-127612 (37407-401600)	
Application Number 10/817,158 - Conf.# 1165		Filed April 2, 2004	
For Fully Implantable Nerve Signal Sensing and Stimulation Device and Method....			
Art Unit 3762		Examiner George C. Manuel	
This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application. The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):			
	<u>Fee</u>	<u>Small Entity Fee</u>	
<input type="checkbox"/> One month (37 CFR 1.17(a)(1))	\$120	\$60	\$ _____
<input type="checkbox"/> Two months (37 CFR 1.17(a)(2))	\$460	\$230	\$ _____
<input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3))	\$1050	\$525	\$ <u>525.00</u>
<input type="checkbox"/> Four months (37 CFR 1.17(a)(4))	\$1640	\$820	\$ _____
<input type="checkbox"/> Five months (37 CFR 1.17(a)(5))	\$2230	\$1115	\$ _____
<input checked="" type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.			
<input type="checkbox"/> A check in the amount of the fee is enclosed.		08/28/2008 VBUI11	08080812 501662 10817158
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.		01 FC:2253	525.00 DA
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>50-1662</u> . I have enclosed a duplicate copy of this sheet.			
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.			
I am the <input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).			
<input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>35,567</u>			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
_____ Signature		August 27, 2008 Date	
Timothy J. Keefer Typed or printed name		312-819-1900 Telephone Number	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
<input type="checkbox"/> Total of _____ forms are submitted.			

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

AUG 27 2008

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Marcelo Daniel Baru Fassio Attorney Docket No. 127612 (37407-401600)
Application No.: 10/817,158 Group Art Unit: 3762
Filed: April 2, 2004 Examiner: George C Manuel
Title: FULLY IMPLANTABLE NERVE SIGNAL SENSING AND
STIMULATION DEVICE AND METHOD FOR TREATING FOOT DROP
AND OTHER NEUROLOGICAL DISORDERS

STATEMENT OF UNINTENTIONAL DELAY FOR FILING RESPONSE

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

Dear Sir:

The above-identified patent application unintentionally abandoned for failure to file a reply to the Office Action mailed February 12, 2008 by the U.S. Patent and Trademark Office. Upon receipt of the Notice of Abandonment we prepared and forwarded the Petition to Revive the application.

The delay in filing the response to the Office Action was unintentional.

Respectfully Submitted,

POL SINELLI SHALTON FLANIGAN
SUELTHAUS PC

Date: August 27, 2008By: 

Timothy J. Keefe, Reg. No. 35,567
180 North Stetson Avenue, Suite 4525
Chicago, IL 60601
Tel: (312) 819-1900
Fax: (312) 819-1910
Attorney for Applicant

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AUG 27 2008

PTO/SB/22 (01-08)

Approved for use through 01/31/2008. OMB 0851-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)		Docket Number (Optional)	
FY 2008		055722-127612 (37407-401600)	
<i>(Fees pursuant to the Consolidated Appropriations Act, 2008 (H.R. 4010).)</i>			
Application Number 10/817,158 - Conf.# 1165		Filed April 2, 2004	
For Fully Implantable Nerve Signal Sensing and Stimulation Device and Method....			
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<input type="checkbox"/> A check in the amount of the fee is enclosed.		08/28/2008 VBUI11	08000012 501662 10817158
<input type="checkbox"/> Payment by credit card. Form PTO-2038 is attached.		01 FC:2253	525.00 DA
<input type="checkbox"/> The Director has already been authorized to charge fees in this application to a Deposit Account.			
<input checked="" type="checkbox"/> The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number <u>50-1662</u> . I have enclosed a duplicate copy of this sheet.			
WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.			
I am the <input type="checkbox"/> applicant/inventor.			
<input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96).			
<input checked="" type="checkbox"/> attorney or agent of record. Registration Number <u>35,567</u>			
<input type="checkbox"/> attorney or agent under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 _____			
_____ Signature		August 27, 2008 Date	
Timothy J. Keefer		312-819-1900	
_____ Typed or printed name		_____ Telephone Number	
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.			
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If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND					
1 Date of Request: 09/19/08		2 Serial/Patent # 10/817,158			
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT	
	Filing			\$	
	Amendment			\$	
X	Extension of Time	PET.OP	08/08/08	\$ 525.00	
	Notice of Appeal/Appeal			\$	
	Petition			\$	
	Issue			\$	
	Cert of Correction/Terminal Disc.			\$	
	Maintenance			\$	
	Assignment			\$	
	Other			\$	
			7 TOTAL AMOUNT OF REFUND		\$ 525.00
			8 TO BE REFUNDED BY:		
10 REASON:			Treasury Check		
	Overpayment	X Credit Deposit A/C #:			
	Duplicate Payment	9 5 0 -- 1 6 6 2			
X	No Fee Due (Explanation):				
No extension of time needed, no fee due					
11 REFUND REQUESTED BY:					
TYPED/PRINTED NAME: Diane Goodwyn		TITLE: Paralegal			
SIGNATURE: /dgoodwyn/		PHONE: 571-272-6735			
OFFICE: Petitions					
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****					
APPROVED:		DATE: 9/29/08			

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to: